

Serial No. 09/864,113

Carl Phillip Gusler

Page 4 of 8

Section III:
AMENDMENT UNDER 37 CFR §1.121 to the
DRAWINGS

No amendments or changes to the Drawings are proposed.

Serial No. 09/864,113

Carl Phillip Gusler

Page 5 of 8

Section IV:
AMENDMENT UNDER 37 CFR §1.121
REMARKS

Rejections under 35 U.S.C. §102(b)

In the Office Action, claims 1, 3, 4, 8, 9, 10, 12, 13, 17, 18, 19, 21, 22, 26 and 27 were rejected under 35 U.S.C. §102(b) as being in public use more than one year before the filing date of the present patent application, by the non-patent publications "Surfing" (hereinafter "Surfing") as published by the Daily Herald (Arlington Heights, Ill.), which refers to "Odigo.com". Examiner has cited pages archived by archive.org from Odigo.com assumably on May 10, 2000, hereinafter referred to as "Archive".

Claims 1, 10 and 19 are independent claims, from which claims 3, 4, 8, 9; 12, 13, 17, 18, and 21, 22, 26 and 27, depend, respectively.

Rejection over "Surfing". The entire extent of the teachings of "Surfing" with respect to the "Odigo" product is a two sentence summary of the operation of the Odigo product:

"Odigo shows the sites most popular with Odigo users, with a bar graph over each site to illustrate just how popular they are. Once at a site, you can bring up a "radar screen" window that shows you which Odigo users are there." (Page 2 of 2 of "Surfing" as provided by the examiner from <http://proquest.umi.com>, printed on 12/13/04, emphasis added).

Likewise, the summaries of the other similar products covered by this article are very brief, amounting to one to three sentences each. As such, the reference "Surfing" does not provide evidence of applicant's claimed invention being in the public domain to an extent at which the public was informed in an enabling manner to practice the invention, based upon this publication alone. Thus, "Surfing" does not anticipate applicant's claimed invention under 35 U.S.C. §102(b).

Serial No. 09/864,113

Carl Phillip Gusler

Page 6 of 8

Rejection over "Achive". The pages as reportedly archived on May 10, 2000, apparently from the web site of the product or service provider, Odigo.com, as well as the citation from "Surfing", clearly describe a product which finds "Odigo users" or "Odigo community members" when they are visiting the same web site:

"This is the People Finder view of Odigo. See all those little figures in the circle? They represent the male and female (guess which ones are which!) Odigo members surfing the Net." (Odigo's "10-second tour" first page, emphasis added).

"Wherever you're surfing, Odigo will show you who else is on the same site, ready to chat. Just click on the little man in the toolbar to instantly bring into view all the other Odigo members on the same site with you." (Odigo's "10-second tour", pg. 2 of 5 page, emphasis added).

The other pages from the Odigo archive are clearly disclosing a "community" of users formed by installing and joining or using the Odigo product. These users have profiles, and even pictures, previously associated with their Odigo member ID numbers. As such, all users of Odigo are "previously associated" with each other, before they visit a common web site, even if they have not actually communicated with each other yet. For example, there is no disclosure provided by Archive which discloses that Odigo can find users or visitors to a common website who have not previously downloaded, installed, and joined Odigo's community of users, including establishing a "profile".

We have claimed that the "shoppers" between whom we enable communications are visiting "a common virtual shopping resource", and are "otherwise disassociated with each other". In other words, they have not previously joined a common chat group, or common community, such as AOL, which would allow them to "find" each other. We have disclosed multiple methods for accomplishing this, including, but not limited to, introductions of members from each others' buddy lists (para. 0054), and establishing communications between two shoppers currently viewing the same page (e.g. within the same virtual geographical mall space) as each other but who are not on each other's buddy list (para. 0056).

As such, we have employed the term "otherwise disassociated" using the conventional

Serial No. 09/864,113

Carl Phillip Gusler

Page 7 of 8

definition, and consistent with our disclosure, to mean “not associated”, in any other manner other than the fact that they are currently visiting the same spot in a virtual shopping mall.

For these reasons, neither “Archive” or “Surfing” anticipate or place the applicant’s claimed invention in public use or on sale more than one year before the filing date of the present patent application. Applicant requests reconsideration of the rejections of, and allowance of claims 1, 3, 4, 8, 9, 10, 12, 13, 17, 18, 19, 21, 22, 26 and 27.

Rejections under 35 U.S.C. §103(a)

Combination in view of Banks. In the Office Action, claims 5, 6, 14, 15, and 23 -24 were rejected as being unpatentable over Surfing or Archive in view of US published patent application 2002/0095465A1 to Banks (hereinafter “Banks”). Claims 5 and 6 depend from Claim 1, claims 14 and 15 depend from claim 10, and claims 23 - 24 depend from claim 19.

It was not established in the rationale for these rejections that Banks teaches providing communications between “disassociated” visitors to a common web page in a virtual shopping mall as we have claimed. Thus, Surfing in view of Banks, and alternatively Archive in view of Banks, fails to teach all of applicant’s claimed steps, elements, and limitations. For these reasons, applicant requests reconsideration of the rejections of, and allowance of claims 5, 6, 14, 15, and 23 -24.

Combination in view of Ferreira. In the Office Action, claims 7, 16, and 25 were rejected as being unpatentable over Surfing or Archive in view of US published patent application 2001/0034661 A1 to Ferreira (hereinafter “Ferreira”). Claim 7 depends from Claim 1, claim 16 depends from claim 10, and claim 25 depends from claim 19.

It was not established in the rationale for the rejections that Ferreira teaches providing communications between “disassociated” visitors to a common web page in a virtual shopping mall as we have claimed. Thus, Surfing in view of Ferreira, and alternatively Archive in view of Ferreira, fails to teach all of applicant’s claimed steps, elements, and limitations. For these reasons, applicant requests reconsideration of the rejections of, and allowance of claims 7, 16, and 25.

Serial No. 09/864,113

Carl Phillip Gusler

Page 8 of 8

Conclusion

For the foregoing reasons, applicant requests reconsideration of all rejections, and allowance of Claims 1 - 27, as previously amended.

Respectfully,

Robert Frantz

Agent for Applicant(s)
Robert H. Frantz, Reg. No. 42,553
Tel: (405) 812-5613

###